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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 JOHN ANTHONY MILLER,
14 Defendant.
15

Case No. 2:23-cr-00221-JAD-DJA

**STIPULATION TO CONTINUE
MOTION DEADLINES AND TRIAL
DATE**
(Fifth Request)

16 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson,
17 United States Attorney, and Jacob Haile Operskalski, Assistant United States Attorney, counsel
18 for the United States of America, and Rene L. Valladares, Federal Public Defender, and Joanne
19 L. Diamond, Assistant Federal Public Defender, counsel for John Anthony Miller, that the
20 calendar call currently scheduled for August 12, 2024 at 1:30 p.m., and the trial scheduled for
21 August 27, 2024 at 9:00 a.m., be vacated and set to a date and time convenient to this Court,
22 but no sooner than ninety (90) days.

23 IT IS FURTHER STIPULATED AND AGREED, that the parties herein shall have to
24 and including August 26, 2024, to file any and all pretrial motions and notices of defense.

25 IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they
26 shall have to and including September 9, 2024, to file any and all responsive pleadings.

1 IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they
2 shall have to and including September 16, 2024, to file any and all replies to dispositive motions.

3 The Stipulation is entered into for the following reasons:

4 1. On May 1, 2024, defense counsel filed a sealed motion expressing concerns
5 about Mr. Miller's mental competence under 18 U.S.C. § 4241(a) and asking this Court to order
6 a psychiatric or psychological evaluation and hold a hearing.

7 2. On May 13, 2024, the government filed a notice of non-opposition.

8 3. For the reasons set forth in their motion, defense counsel cannot proceed to trial
9 with Mr. Miller until their concerns about his competency are resolved.

10 4. Mr. Miller is incarcerated.

11 5. The parties agree to the continuance.

12 6. The additional time requested herein is not sought for purposes of delay, but to
13 allow defense counsel for defendant sufficient time to effectively review discovery with Mr.
14 Miller and pursue any necessary investigation.

15 7. Additionally, denial of this request for continuance could result in a miscarriage
16 of justice. The additional time requested by this Stipulation is excludable in computing the time
17 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
18 States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code,
19 Section 3161(h)(7)(B)(i), (iv).

20 This is the fifth stipulation to continue filed herein.

21 DATED May 28, 2024.

22 RENE L. VALLADARES
23 Federal Public Defender

24 By /s/ Joanne L. Diamond

25 JOANNE L. DIAMOND
Assistant Federal Public Defender

JASON M. FRIERSON
United States Attorney

By /s/ Jacob Haile Operskalski

JACOB HAILE OPERSKALSKI
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN ANTHONY MILLER,

Defendant.

Case No. 2:23-cr-00221-JAD-DJA

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. On May 1, 2024, defense counsel filed a sealed motion expressing concerns about Mr. Miller's mental competence under 18 U.S.C. § 4241(a) and asking this Court to order a psychiatric or psychological evaluation and hold a hearing.

2. On May 13, 2024, the government filed a notice of non-opposition.

3. For the reasons set forth in their motion, defense counsel cannot proceed to trial with Mr. Miller until their concerns about his competency are resolved.

4. Mr. Miller is incarcerated.

5. The parties agree to the continuance.

6. The additional time requested herein is not sought for purposes of delay, but to allow defense counsel for defendant sufficient time to effectively review discovery with Mr. Miller and pursue any necessary investigation.

7. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United

1 States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code,
2 Section 3161(h)(7)(B)(i), (iv).

3 **CONCLUSIONS OF LAW**

4 The ends of justice served by granting said continuance outweigh the best interest of the
5 public and the defendant in a speedy trial, since the failure to grant said continuance would be
6 likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the
7 opportunity within which to be able to effectively and thoroughly prepare for trial, taking into
8 account the exercise of due diligence.

9 The continuance sought herein is excludable under the Speedy Trial Act, Title 18,
10 United States Code, Section § 3161 (h)(7)(A), when considering the factors under Title 18,
11 United States Code, § 3161(h)(7)(B)(i), (iv).

12 **ORDER**

13 IT IS THEREFORE ORDERED that the parties herein shall have to and including
14 August 26, 2024 to file any and all pretrial motions and notice of defense.

15 IT IS FURTHER ORDERED that the parties shall have to and including September 9,
16 2024 to file any and all responses.

17 IT IS FURTHER ORDERED that the parties shall have to and including September 16,
18 2024 to file any and all replies.

19 IT IS FURTHER ORDERED that trial briefs, proposed voir dire questions, proposed
20 jury instructions, and a list of the Government's prospective witnesses must be electronically
21 submitted to the Court by the ____ day of _____, 2024.

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1 IT IS FURTHER ORDERED that the calendar call currently scheduled for August 12,
2 2024, at the hour of 1:30 p.m., be vacated and continued to _____ at the hour of
3 ____: ____ .m.; and the trial currently scheduled for August 27, 2024, at the hour of 9:00 a.m.,
4 be vacated and continued to _____ at the hour of ____: ____ .m.

5 DATED this ____ day of May, 2024.

6 _____
7 UNITED STATES DISTRICT JUDGE
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